

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA**

WILLIAM NORKUNAS, Individually,

Plaintiff,

v.

TAR HEEL CAPITAL WENDY'S LLC, A
Domestic Limited Liability Corporation, and
FFC Limited Partnership, A Domestic Partnership

Defendant.

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: Case No. 5:09-cv-116
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PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

Plaintiff, by and through undersigned counsel and pursuant to Fed. R. Civ. P. 56 and Local Rule 7.5, hereby moves for Summary Judgment. Plaintiff hereby incorporates the Memorandum in Support thereof and further states as follows:

1. Plaintiff utilizes a scooter to ambulate and qualifies as a disabled person within the meaning of Title III of the Americans With Disabilities Act ("ADA"), 42 U.S.C. Sections 12181, et seq.

2. On many occasions, Plaintiff visited the places of public accommodation, known as Wendy's, 1301 South Collegiate Drive, Wilkesboro, NC 28697; Wendy's, 316 N. 2nd Street, North Wilkesboro, NC 28659; Wendy's, 159 Turnersburg Hwy, Statesville, NC 28625; Wendy's, 1807 E. Broad Street, Statesville, NC 28625; and Wendy's, 1016 Blowing Rock Rd, Boone, NC 28607.

3. While visiting Defendant's restaurants, Plaintiff encountered numerous ADA violations which discriminated against him on the basis of this disability and the instant action was commenced for injunctive relief for the removal of those barriers to access.

4. By failing to adequately and completely remedy the violations at the properties, Defendant is operating its facility in violation of the ADA, and the removal of barriers is readily achievable.

WHEREFORE, Plaintiff respectfully requests that this Court enter Summary Judgment against Defendant and require the Defendant to immediately bring its facility into full compliance with the ADA. Plaintiff further seeks judgment for his attorney fees, costs, expert fees and litigation expenses.

Respectfully submitted,

Attorney for Plaintiffs:

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served via the Court's CM/ECF system upon all parties of record this 31st day of December, 2010.

/s/ Pete M. Monismith
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